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UNCLAS SECTION 01 OF 08 LUXEMBOURG 000080

SIPDIS

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SENSITIVE

DEPT FOR USAID, G/TIP, G, INL, DRL, PRM, EUR/ERA, EUR/UBI

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SUBJECT: LUXEMBOURG: 2007 ANNUAL TRAFFICKING-IN-PERSONS REPORT

REF: 06 STATE 202745

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¶11. (U) Embassy Luxembourg is pleased to present the following information regarding trafficking in persons in Luxembourg. Point of contact is Tom Boughter; tel: +352 46-01-23, ext. 2240. Political officer (FS-04) spent 20 hours meeting contacts and collecting information for this report. Acting political/economic section chief (FS-04) spent 15 hours preparing this report. DCM (FS-01) spent 2 hours reviewing and editing this report. Political section specialist (FSN-10) spent 60 hours collecting information, meeting with interlocutors, and preparing this report.

¶12. (SBU) SUMMARY: Luxembourg is a country of destination for internationally trafficked women. In 2006 there were five identified trafficking victims in a total population of 460,000. The Luxembourg police are currently working on four investigations involving international trafficking networks. Because it is such a small country that has a carefully controlled prostitution sector as well as police who are well educated to the trafficking issue, this is likely to be the extent of the trafficking problem in Luxembourg this year. In October 2006, the Luxembourg police created a special criminal investigation unit, specialized in investigations on trafficking in people. Four people were assigned to this unit, which is charged with pursuing national and cross-border investigations against international trafficking networks in cooperation with Interpol, Europol and other international organizations.

Prostitution in private studios and apartments, in relation with trafficking in human beings, has decreased considerably although the January 2007 accession of Romania and Bulgaria to the European Union may change the nature of the trafficking problem in Luxembourg. The Government of Luxembourg is aware of this area of potential concern and monitoring it closely.

During the reporting period, Luxembourg made significant efforts to increase awareness and cooperation on trafficking issues. All relevant government actors have become much better educated to the global trafficking issue and enjoy excellent cooperation between the relevant governmental and non-governmental actors. END SUMMARY.

NOTE: Numerical markings below correspond to questions posed in reftel.

Overview

¶3. (SBU) Overview of a country's activities to eliminate trafficking in persons:

-- 27A. Is the country a country of origin, transit or destination for international trafficked men, women, or children? Provide numbers for each group, how they were trafficked, to where and for what purpose. How reliable are the sources and numbers available as to the extent or magnitude of the problem?

Answer: Luxembourg is a country of destination for various internationally trafficked women. In 2006, the GOL identified 5 trafficking victims: from Romania (1) and Brazil (4), all of which were women. Because it is such a small country that has a rigorously controlled prostitution sector as well as police who are well educated to the trafficking issue, this is likely to be the extent of the trafficking problem in Luxembourg.

Numbers and sources are deemed by Embassy to be reliable and accurate. Embassy believes that Luxembourg interlocutors have no reason or desire to hide trafficking. Contacts appear eager to identify and actively address such issues as they arise. Sources for this report include the head of the Luxembourg Vice Squad, members of the criminal investigation unit specialized in investigations on TIP, Amnesty International, representatives from the Ministry for Promotion of Women, the Ministry of Justice, the Red Cross Drop-In Center, and ASTI, an NGO that provides shelter to women in distress.

--27B. Overview of the trafficking situation in the country

Answer: The government has demonstrated the political will to address trafficking in persons. In October 2006, the Luxembourg police created a criminal investigation unit to solely specialize in investigations of trafficking in people. Four officers were

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assigned to this unit, which is in charge of pursuing cross-border investigations on international trafficking networks in cooperation with Interpol, Europol and other international organizations.

Following the abolition of artist visas in May 2004, the number of cabarets decreased and prostitution was largely practiced in private studios and apartments, which belonged to pimps who rented the apartments and profited from the work of prostitution. With the frequent raids carried out by the Luxembourg Vice Squad and now the special criminal investigation unit, specialized in investigations on TIP, this type of prostitution has also decreased substantially.

In March 2006, a Romanian victim of sex trafficking was discovered. The Romanian woman was sold by an intermediary Romanian woman to a Kosovo-Albanian trafficker with residence in Great Britain. The Romanian woman was trafficked from Romania through Austria and Belgium to Luxembourg. She testified as a witness and helped police to identify and arrest her trafficker. After she was found to be a trafficking victim, she was provided shelter and food by a government-funded NGO. She was voluntarily repatriated to Romania with the assistance of GOL funding.

In June 2006, four Brazilian women were found to have been trafficked from Brazil through Portugal and France to Luxembourg. They were forced into prostitution in a private apartment, which was rented by the former wife (with residence in Luxembourg) of a Portuguese pimp (with residence in Portugal). The Brazilian women were provided shelter and food by a government-funded NGO. They were all voluntarily repatriated to Brazil with the assistance of GOL funding. The police are still investigating reports of another group of 8 to 10 Brazilian women working in apartments which they suspect may involve trafficking.

¶4. (SBU) PREVENTION:

--28A. Does the government acknowledge that trafficking is a problem in that country?

Answer: In October 2006, the GOL established a counter-trafficking working group in the criminal investigation police. That working group will evaluate to what extent there is a trafficking problem in country and establish a trafficking monitoring mechanism.

The GOL acknowledges that it is time to improve its counter-trafficking law. (Note: The applicable legislation incriminates trafficking in human beings for sexual exploitation in respect to adults and children, but does not offer a comprehensive and workable definition of the phenomenon and also omits certain forms of exploitation such as forced labor.)

The MoJ TIP coordinator, who is charged with drafting the new counter-trafficking law, acknowledged that the MoJ had been premature last year when informing Post that Luxembourg anticipated adopting a new counter-trafficking law by the end of 2006. The TIP coordinator declined to suggest a new date because the MFA Immigration department has been required to draft a new section on residence and work permits for TIP victims in the counter-trafficking law.

--28B. Which government agencies are involved in anti-trafficking efforts?

Answer: The Luxembourg Vice Squad, the new Criminal Police unit specialized in investigations on TIP, the Ministry for the Equal Opportunities, the Ministry of Foreign Affairs-Immigration, the Ministry of Justice, the Ministry of Employment, the City of Luxembourg, the General Prosecutor's Office, and the Tribunal d'Arrondissement.

The Air Border Security Service (immigration control) would become involved should there be a suspicion that trafficking was occurring through Luxembourg's one commercial airport.

--28C. Are there or have there been government-run anti-trafficking information or education campaigns? If so, briefly describe the campaign(s), including their objectives and effectiveness. Do these campaigns target potential trafficking victims and/or the demand for trafficking (e.g. "clients" of prostitutes or beneficiaries of forced labor)?

Answer: In April 2006, the Ministry for Equal Opportunities

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conducted, in cooperation with the MoJ and the Luxembourg police, specialized TIP training to educate all staff workers involved in women shelter work. Participation: 33 women and 2 men.

In September, the Ministry for Equal Opportunities, Amnesty International and the Luxembourg Red Cross provided a preview of the Luxembourgish co-production film "Your Name is Justine." The film is the experience of a young woman from Poland who is sold as a prostitute in Germany. The preview was followed by a debate on trafficking in persons with an audience of 180 people. There was wide press coverage.

In December 2006, the Ministry for Equal Opportunities conducted a seminar in cooperation with one of a government funded shelter for women in distress. The seminar entitled "TIP situation in Luxembourg-Interagency cooperation" was attended by 21 women and 2 men working in shelters for women in distress. Following this seminar, a working group was set up to create a network structure in charge of providing care for victims of trafficking in persons.

--28D. Does the government support other programs to prevent trafficking? (e.g., to promote women's participation in economic decision-making or efforts to keep children in school.) Please explain.

Answer: In the framework of a government-run campaign to promote gender mainstreaming, in March 2006, the Ministry of Equal Opportunity organized a seminar to discuss the government's national action plan on equality between men and women with NGOs and institutions involved in women's rights. On March 16, 2006, the

Luxembourg Parliament introduced the principle of non-discrimination in Luxembourg's legislation. Article 11 of the Luxembourg Constitution was revised to formally enter equality between men and women in the text of the Constitution.

--28E. What is the relationship between government officials, NGOs, other relevant organizations and other elements of civil society on the trafficking issue?

Answer: In the identified trafficking cases, the police have worked well with NGOs to provide the victims shelter, food, and protection.

The Ministry for Equal Opportunities described relationships among all who work on trafficking issues as "excellent" and "cooperative."

Similarly, Amnesty International contacts described their contact with GOL officials as "very friendly." Embassy observes good communication and cooperation between the various governmental and non-governmental organizations in Luxembourg.

--28F. Does the government adequately monitor immigration and emigration patterns for evidence of trafficking? Do law enforcement agencies respond appropriately to such evidence?

Answer: The MFA-Immigration Asylum and Refugee Office are very aware of the dangers of trafficking during interviews and investigations of asylum-seekers.

Luxembourg Air Border Security uses prescreening, profiling, and international risk analysis for air passenger traffic in and out of the country.

EU country statistics are sent to the Risk-Analysis Center (RAC) in Helsinki every semester, and monthly to Eurostat, where they are analyzed for trends and patterns. Law enforcement officials would respond in the prescribed manner should trafficking be suspected.

As is the case throughout the Schengen area, persons traveling by car or rail no longer stop at borders when entering and exiting the country so very little monitoring occurs in these cases.

--28G. Is there a mechanism for coordination and communication between various agencies, internal, international, and multilateral on trafficking-related matters, such as multi-agency working group or task force? Does the government have a trafficking in persons working groups or single point of contact? Does the government have a public corruption task force?

Answer: The MoJ TIP coordinator serves as the principal point of contact and coordinator for counter-trafficking efforts within the GOL. There is currently excellent cooperation between the various involved agencies. The draft law will institutionalize this process, establishing a permanent multi-agency counter-trafficking working group.

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The new criminal investigation unit, specialized in investigations on trafficking in people, has cooperated with the police in several countries, with Interpol and Europol in order to combat trafficking.

The Council of Europe's monitoring mechanism for public institutions monitors public corruption in Luxembourg and other EU countries. In addition, the OECD regularly reports on corruption issues within governments.

--28H. Does the government have a national plan of action to address trafficking in persons?

Answer: The government currently does not have an official national plan of action.

5. (SBU) INVESTIGATION AND PROSECUTION OF TRAFFICKERS:

--29A. Does the country have a law specifically prohibiting trafficking in persons--both trafficking for sexual exploitation and trafficking for non-sexual purposes (e.g. forced labor)? If so,

what is the law? If not, under what other laws can traffickers be prosecuted? For example, are there laws against slavery or the exploitation of prostitution by means of coercion or fraud? Are these other laws being used in trafficking cases? Are these laws, taken together, adequate to cover the full scope of trafficking in persons?

Answer: According to the Luxembourg Penal Code Article 379bis, trafficking for sexual exploitation carries penalties from six months to three years, and monetary fines from 251 to 50,000 Euros. In cases of force, the prison terms may range from one to ten years.

The Penal Code also allows for fines of 500 to 125,000 Euros and prison terms from one month to three years for facilitating a foreigner's illegal entry and residence through direct or indirect assistance, which would be used in cases of trafficking for non-sexual exploitation purposes.

The Luxembourg Judicial Police Organized Crime Unit has indicated that Luxembourg's laws against organized crime could also be used in trafficking cases.

--29B. What are the penalties for traffickers of people for sexual exploitation?

According to the Luxembourg Penal Code Article 379bis, trafficking for sexual exploitation carries penalties from six months to three years, and monetary fines from 251 to 50,000 Euros. In cases of force, the prison terms may range from one to ten years.

The Penal Code also allows for fines of 500 to 125,000 Euros and prison terms from one month to three years for facilitating a foreigner's illegal entry and residence through direct or indirect assistance, which would be used in cases of trafficking for non-sexual exploitation purposes.

--29C. For traffickers of people for labor exploitation?

According to the Luxembourg Penal Code Article 379bis, trafficking for sexual exploitation carries penalties from six months to three years, and monetary fines from 251 to 50,000 Euros. In cases of force, the prison terms may range from one to ten years.

The Penal Code also allows for fines of 500 to 125,000 Euros and prison terms from one month to three years for facilitating a foreigner's illegal entry and residence through direct or indirect assistance, which would be used in cases of trafficking for non-sexual exploitation purposes.

--29D. What are the penalties for rape or forcible sexual assault? How do they compare to the penalty for sex trafficking?

Answer: Any act of sexual penetration through force or threat is considered a rape and punishable with imprisonment of five to ten years. If the victim is under fourteen years of age, then any act of sexual penetration committed through abuse of a person that is incapable of giving consent is considered rape and punishable with imprisonment of ten to 15 years.

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If the rape is followed by the death of the victim, then the prison sentence will be 15 to 20 years. Murder committed in order to facilitate the rape or ensure its impunity is punishable with imprisonment for life.

According to the Luxembourg Penal Code, Article 372, any assault on decency against a child under sixteen years of age is punishable with imprisonment from one to five years. If the child is under eleven years of age, the imprisonment will range from five to ten years.

Any assault on decency committed with force or threat carries penalties ranging from six months to five years. If the assault is committed against a child under fourteen years of age, the penalties

will range from five to ten years.

--29E. Is prostitution legalized or decriminalized? Specifically, are the activities of the prostitute criminalized? Are the activities of the brothel owner/operator, clients, pimps, and enforcers criminalized? Are these laws enforced? If prostitution is legal and regulated, what is the legal minimum age for this activity?

Answer: Prostitution by adults over the age of 18 is legal in Luxembourg. Activity as a brothel owner/operator, client, pimp and anyone profiting from the activities of a prostitute are illegal. These laws are effectively enforced.

--29F. Has the Government prosecuted any cases against traffickers? If so, provide numbers of investigations, prosecution, convictions, and sentences, including details on plea bargains and fines, if relevant and available? Are the traffickers serving the time sentenced?

Answer: The GOL arrested and convicted one Kosovo-Albanian for his role in smuggling (from Romania through Austria, Belgium to Luxembourg) and pimping one Romanian woman. He was charged with procuring prostitution and human trafficking under section 379bis in the Luxembourg Penal Code. In January 2007, he was sentenced to three years imprisonment and a 2,500 Euro fine. He is currently serving this sentence in prison. The Luxembourg police worked with the Belgian authorities to obtain information on the Belgian tenant who was renting an apartment in Luxembourg to the Kosovo-Albanian trafficker.

In 2004, the GOL arrested a Portuguese pimp who was charged with the procurement of prostitution and human trafficking under section 379bis in the Luxembourg Penal Code.

In June 2006, a Portuguese pimp was given an 18-month deferred sentence and she was sentenced to a 2,500 EUR fine. The suspended sentence was given to her because her former husband, with residence in Portugal, was considered the trafficker who brought four Brazilian women through Portugal to Luxembourg.

The Luxembourg special criminal investigation unit, specialized in investigations on trafficking in people reported there are four investigations related to trafficking in 2007. There were two convictions of the Kosovo-Albanian and the Portuguese national under the sections of the law related to pimping, smuggling and trafficking.

--29G. Is there any information or reports of who is behind the trafficking?

Answer: In the case of the Romanian woman, it appears only one Kosovo-Albanian was involved.

In the case of the four Brazilian women, there was evidence that the Portuguese pimp was working through her former Portuguese husband with a network of traffickers who brought the women from Brazil through Portugal to Luxembourg. There is no information as to the scale of the network.

--29H. Does the government actively investigate cases of trafficking? Electronic surveillance, undercover operations, etc

Answer: The GOL actively monitors and efficiently addresses problems related to trafficking as they arise.

Does the government use active investigative techniques in trafficking in persons investigations? To the extent possible under

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domestic law, are techniques such as electronic surveillance, undercover operations, and mitigated punishment or immunity for cooperating suspects used by the government? Does the criminal procedure code or other laws prohibit the police from engaging in covert operations?

The GOL uses active investigative techniques, including electronic surveillance and undercover operations.

However, the police are prohibited from engaging in covert operations.

--29I. Does the government provide any specialized training for government officials in how to recognize, investigate and prosecute instances of trafficking?

Answer: The Luxembourg Ministry of Justice maintains a training program, launched in January 2006, aimed at educating police, immigration department, and other relevant government officials as well as NGO workers as to how to identify trafficking victims. The TIP working group coordinator regularly offers such a training program for relevant government employees.

The Luxembourg air border security service provides continuous training on an international level, especially with its EU counterparts, and coordinates with customs officials. They are trained to detect irregularities in immigration patterns, recognize unusual behaviors, and watch for travelers belonging to particularly vulnerable groups.

--29J. Does the government cooperate with other governments in the investigation and prosecution of trafficking cases?

Answer: Until recently, the GOL had an Office of Police Coordination with the German, Belgian, and French governments to determine what prosecutors' needs are in relation to crime, immigration and TIP. On May 1st, 2005, this office was replaced by the European Union Border Management Agency, which now coordinates efforts to check crime, illegal immigration and related matters within the European Union.

Considering the flow of illegal migration towards the Canary Islands, being a part of one of the main four routes to the EU, the governments of Luxembourg, Germany, Portugal, and Italy decided in February 2007, to provide experts to help on interviews with illegal migrants who have arrived to the Canary Islands with the aim to establish whether these crossings are being facilitated. The second focus of the operation will be joint patrols by aerial and naval means of Spain, Italy, Luxembourg, and France along the coast of West Africa. The Luxembourg government will provide one aircraft. The aim of these patrols, carried out in coordination with Senegalese authorities, will be to stop migrants from leaving the shore on the long sea journey and thus reducing the danger of the loss of human life.

--29K. Does the government extradite persons who are charged with trafficking in other countries? Does the government extradite its own national charged with such offenses?

Answer: There is an extradition law, implemented in 1972, under which the government has extradited 6 agents of human trafficking. There is no law saying that Luxembourgers cannot be extradited for trafficking. Luxembourg is also a signatory to the European Arrest Warrant, under which no extradition is required to move and prosecute criminals within signatory members of the European Union.

--29L. Is there evidence of government involvement in or tolerance of trafficking, on a local or institutional level?

Answer: All reports indicate that the GOL is a staunch advocate of firm action against trafficking.

--29M. If government officials are involved in trafficking, what steps has the government taken to end such participation?

Answer: Not applicable

--29N. If the country has an identified child sex tourism problem (as source or destination), how many foreign pedophiles has the government prosecuted or deported/extradited to their country of origin? Does the country's child sexual abuse laws have extraterritorial coverage (like the U.S. PROTECT ACT)?

Answer: Not applicable

--290. Has the government signed, ratified, and/or taken steps to implement the following international instruments? Please provide the date of signature/ratification if appropriate.

--ILO Convention 182 concerning the prohibition and immediate action for the elimination of the worst forms of child labor.

Answer: YES. 21 March 2001.

--ILO Convention 29 and 105 on forced or compulsory labor.

Answer: YES. Both on 24 July 1964.

--The Optional Protocol to the Convention on the Rights of the Child (CRC) on the sale of children, child prostitution, and child pornography.

Answer: YES. 1992.

--The Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children, supplementing the UN Convention Against Transnational Organized Crime.

Answer: YES. 13 December 2000.

Note: Additionally, Luxembourg signed the Council of Europe Convention Against Trafficking in Human Beings 16 May 2005.

16. (SBU) PROTECTION AND ASSISTANCE TO VICTIMS:

--30A. Does the government assist victims, for example, by providing temporary to permanent residency status, relief from deportation, shelter and access to legal, medical and psychological services? If so, please explain. Does the country have victim care and victim health care facilities? If so, can post provide the number of victims placed in these facilities?

Answer: The government fully funds two domestic NGOs, each having several branches, which provide services to women in distress. Victims of trafficking are eligible for and have used these services.

When the Romanian trafficking victim was called to witness in a Luxembourg court, the government funded her transportation and hotel costs during her stay in Luxembourg.

The Drop-in Center for Sex Workers provides free medical care. They have about 700 clients with active files.

--30B. Does the government provide funding or other forms of support to foreign or domestic NGOs for services to victims? Please explain.

Answer: The government fully funds two domestic NGOs, each having several branches, which provide services to women in distress. Victims of trafficking are eligible for and have used these services.

When the Romanian trafficking victim was called to witness in a Luxembourg court, the government funded her transportation and hotel costs during her stay in Luxembourg.

The Drop-in Center for Sex Workers provides free medical care. They have about 700 clients with active files.

--30C. Is there a screening and referral process in place, when appropriate, to transfer victims detained, arrested or placed in protective custody by law enforcement authorities to NGOs that provide short- or long-term care?

Answer: Because the trafficking problem is so new, unusual and limited in Luxembourg, the GOL has no official system in place for this. In the cases in which trafficking victims have been

identified, such as that of the Romanian woman, the Ministry for the Equal Opportunities provided the funding for housing and protecting the victim after she had come forward. In 2006, the criminal investigation unit, specialized in investigations on trafficking in people was also granted a substantial budget to care for potential victims.

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--30D. Are the rights of victims respected, or are victims also treated as criminals? Are victims detained, jailed, or deported? If detained or jailed, for how long? Are victims fined? Are victims prosecuted for violations of other laws, such as those governing immigration or prostitution?

Answer: As soon as a person is identified as a trafficking victim, her rights are respected, and she is assisted with housing and subsistence needs.

--30E. Does the government encourage victims to assist in the investigation and prosecution of trafficking? Can victims file civil suits or seek legal action against the traffickers?

Answer: The government encouraged the victims to give full testimony with regard to any and all trafficking-related cases. Victims can seek legal action against the traffickers.

--30F. What kind of protection is the government able to provide for victims and witnesses? Does it provide these protections in practice? How many shelters does the government run or fund (in full or in part)? How much funding does the government provide for shelters?

Answer: The government provides full operational funding for two NGOs and eleven shelters for women in need. In October 2006, the government granted the criminal investigation unit, specialized in investigations on trafficking in people, a substantial budget to provide for such victims. In every trafficking case that has arisen, the GOL has seen to it that victims have been provided shelter and that their basic needs have been met.

The Luxembourg Vice Squad has also gone to great lengths to aid the victims of trafficking persons. Although they had no Witness Protection Program in place, they have taken substantial measures to protect the victims' physical safety and identities. After the court proceedings had finished, they assisted the victims in creating new identities and getting settled in a Witness Protection Program abroad.

-- 30G. Does the government provide any specialized training for government officials in recognizing trafficking and in the provision of assistance to trafficked victims, including the special needs of trafficked children?

Answer: The Luxembourg Ministry of Justice maintains a training program, launched in January 2006, aimed at educating police, immigration department, and other relevant government officials as well as NGO workers as to how to identify trafficking victims. The TIP working group coordinator regularly offers such a training program for relevant government employees.

The Luxembourg air border security service provides continuous training on an international level, especially with its EU counterparts, and coordinates with customs officials. They are trained to detect irregularities in immigration patterns, recognize unusual behaviors, and watch for travelers belonging to particularly vulnerable groups.

--30H. Does the government provide assistance, such as medical aid, shelter, or financial help, to its repatriated nationals who are victims of trafficking?

Answer: Not applicable.

--30I. Which international organizations or NGOs, if any, work with trafficking victims? What type of services do they provide? What

sort of cooperation do they receive from local authorities?

The Luxembourg Vice Squad and the Ministry of Women's Promotion have worked with Caritas, including its COATNET representative, SOS Women in Distress, and the Comit de Liaison et d'Action des Etrangers (CLAE), to ensure that trafficking victims are given shelter and provisions to ensure their well-being and protection from traffickers.

KRAFT